

## **IC 6-7-2**

### **Chapter 2. Tobacco Products Tax**

## **IC 6-7-2-1**

### **"Department" defined**

Sec. 1. As used in this chapter, "department" refers to the department of state revenue and includes its employees and agents.  
*As added by P.L.96-1987, SEC.7.*

## **IC 6-7-2-2**

### **"Distributor" defined**

Sec. 2. As used in this chapter, "distributor" means a person who:

- (1) manufactures, sells, barter, exchanges, or distributes tobacco products in Indiana to retail dealers for the purpose of resale;
- (2) purchases tobacco products directly from a manufacturer of tobacco products; or
- (3) purchases for resale tobacco products from a wholesaler, jobber, or distributor outside of Indiana who is not a distributor holding a license issued under this chapter.

*As added by P.L.96-1987, SEC.7.*

## **IC 6-7-2-3**

### **"Person" defined**

Sec. 3. As used in this chapter, "person" has the meaning set forth in IC 6-7-1-4.

*As added by P.L.96-1987, SEC.7.*

## **IC 6-7-2-4**

### **"Retail dealer" defined**

Sec. 4. As used in this chapter, "retail dealer" means a person engaged in the business of selling tobacco products to ultimate consumers.

*As added by P.L.96-1987, SEC.7.*

## **IC 6-7-2-5**

### **"Tobacco product" defined**

Sec. 5. As used in this chapter, "tobacco product" means:

- (1) any product made from tobacco, other than a cigarette (as defined in IC 6-7-1-2), that is made for smoking, chewing, or both; or
- (2) snuff.

*As added by P.L.96-1987, SEC.7.*

## **IC 6-7-2-6**

### **"Wholesale price" defined**

Sec. 6. As used in this chapter, "wholesale price" means the price at which the manufacturer of the tobacco products sells tobacco products to distributors, excluding any discount or other reduction.

*As added by P.L.96-1987, SEC.7.*

### **IC 6-7-2-7**

#### **Tax on distribution of tobacco products; rate; time of imposition**

Sec. 7. A tax is imposed on the distribution of tobacco products in Indiana at the rate of eighteen percent (18%) of the wholesale price of the tobacco products. The distributor of the tobacco products is liable for the tax. The tax is imposed at the time the distributor:

- (1) brings or causes tobacco products to be brought into Indiana for distribution;
- (2) manufactures tobacco products in Indiana for distribution;
- or
- (3) transports tobacco products to retail dealers in Indiana for resale by those retail dealers.

*As added by P.L.96-1987, SEC.7. Amended by P.L.192-2002(ss), SEC.138.*

### **IC 6-7-2-8**

#### **Distributor's license**

Sec. 8. (a) A distributor must obtain a license under this section before it distributes tobacco products in Indiana. The department shall issue licenses to applicants that qualify under this section. A license issued under this section is valid for one (1) year unless revoked or suspended by the department and is not transferable.

(b) An applicant for a license under this section must submit proof to the department of the appointment of an agent for service of process in Indiana if the applicant is:

- (1) an individual whose principal place of residence is outside Indiana; or
- (2) a person, other than an individual, that has its principal place of business outside Indiana.

(c) To obtain or renew a license under this section, a person must:

- (1) submit, for each location where it intends to distribute tobacco products, an application that includes all information required by the department;
- (2) pay a fee of twenty-five dollars (\$25) at the time of application; and
- (3) at the time of application, post a bond, issued by a surety company approved by the department, in an amount not less than one thousand dollars (\$1,000) and conditioned on the applicant's compliance with this chapter.

(d) If business is transacted at two (2) or more places by one (1) distributor, a separate license must be obtained for each place of business.

(e) Each license must be numbered, show the name and address of the distributor, and be posted in a conspicuous place at the place of business for which it is issued.

(f) If the department determines that a bond provided by a licensee is inadequate, the department may require a new bond in the amount necessary to fully protect the state.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-9****Change of location; license reissuance**

Sec. 9. A distributor that changes its place of business shall return its license, and the department shall issue, free of charge, a new license for the new place of business.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-10****Surrender of license; refund**

Sec. 10. A license issued under this chapter may be surrendered to the department at any time before its expiration, and the department shall refund an amount of money that bears the same proportion to the fee originally paid as the unexpired period of the permit bears to one (1) year. No refund may be allowed if a license is suspended or revoked, and no refund may be made that is:

- (1) greater than seventy-five dollars (\$75); or
- (2) less than twenty-five dollars (\$25).

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-11****Revocation or suspension of license**

Sec. 11. The department:

- (1) may revoke or suspend a license issued under this chapter for any violation of this chapter or IC 6-7-1-18 by the licensee; and
- (2) may not issue a license under this chapter to an applicant within six (6) months after the revocation of that applicant's license.

*As added by P.L.96-1987, SEC.7. Amended by P.L.252-2003, SEC.3.*

**IC 6-7-2-12****Filing of return; payment of tax**

Sec. 12. (a) Before the fifteenth day of each month, each distributor liable for the tax imposed by this chapter shall:

- (1) file a return with the department that includes all information required by the department including, but not limited to:
  - (A) name of distributor;
  - (B) address of distributor;
  - (C) license number of distributor;
  - (D) invoice date;
  - (E) invoice number;
  - (F) name and address of person from whom tobacco products were purchased or name and address of person to whom tobacco products were sold; and
  - (G) wholesale price; and
- (2) pay the tax for which it is liable under this chapter for the preceding month minus the amount specified in section 13 of this chapter.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-13****Collection allowance**

Sec. 13. A distributor that files a complete return and pays the tax due within the time specified in section 12 of this chapter is entitled to deduct and retain from the tax a collection allowance of six-thousandths (0.006) of the amount due. If a distributor files an incomplete report, the department may reduce the collection allowance by an amount that does not exceed the lesser of:

- (1) ten percent (10%) of the collection allowance; or
- (2) fifty dollars (\$50).

*As added by P.L.96-1987, SEC.7. Amended by P.L.192-2002(ss), SEC.139.*

**IC 6-7-2-14****Credit or refund of taxes**

Sec. 14. The department shall credit or refund to a distributor the tax paid under this chapter on tobacco products that are:

- (1) shipped outside Indiana;
- (2) returned to the manufacturer; or
- (3) destroyed by the distributor in the presence of an employee or agent of the department.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-15****Registration of manufacturer, importer, broker, or shipper distributing to distributor**

Sec. 15. Every manufacturer, importer, broker, or shipper of tobacco products must register with the department before it sells or otherwise distributes tobacco products to distributors.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-16****Manufacturer, importer, broker, or shipper; proof of distributions**

Sec. 16. Every manufacturer, importer, broker, or shipper of tobacco products that sells or otherwise distributes tobacco products to distributors shall, before the fifteenth day of each month, submit proof to the department of all of its sales or other distributions to distributors in the preceding month.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-17****Deposit of revenues**

Sec. 17. The department shall deposit all revenue collected under this chapter as provided in IC 6-7-1-28.1.

*As added by P.L.96-1987, SEC.7.*

**IC 6-7-2-18****Distribution without a license; offense**

Sec. 18. A person who distributes tobacco products without a license issued under this chapter commits a Class B misdemeanor.

*As added by P.L.96-1987, SEC.7.*

#### **IC 6-7-2-19**

##### **Manufacturer noncompliance; offense**

Sec. 19. A manufacturer of tobacco products who does not comply with the requirements of section 15 or 16 of this chapter commits a Class B misdemeanor.

*As added by P.L.96-1987, SEC.7.*

#### **IC 6-7-2-20**

##### **Record keeping violations**

Sec. 20. A distributor who does not comply with the requirements of IC 6-8.1-5-4 commits a Class B misdemeanor.

*As added by P.L.96-1987, SEC.7.*

#### **IC 6-7-2-21**

##### **Distributor offenses**

Sec. 21. A distributor who knowingly:

- (1) acts as a distributor without a license;
- (2) makes a false statement in a report under this chapter; or
- (3) does not pay the tax for which the distributor is liable under this chapter;

commits a Class B misdemeanor. However, the offense is a Class D felony if it is committed with intent to evade the tax imposed by this chapter or to defraud the state.

*As added by P.L.96-1987, SEC.7.*

#### **IC 6-7-2-22**

##### **Listed tax**

Sec. 22. The tax imposed under this chapter is a listed tax for purposes of IC 6-8.1.

*As added by P.L.96-1987, SEC.7.*

#### **IC 6-7-2-23**

##### **Federal sales; exemption**

Sec. 23. The sale of tobacco products to the United States or an agency or instrumentality thereof is exempt from the tobacco products tax.

*As added by P.L.96-1987, SEC.7.*